IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5536 OF 2006

Kum.Sulabha Ramesh Dhakate & Anr. ...Petitioners

V/s.

State of Maharashtra & Ors. ...Respondents

Shri.R.K. Mendadkar & Ms.H.K. Mandlik for the Petitioners.
Shri.C.R. Sonawane, Assistant Government Pleader, for the Respondents.

CORAM : H.S. BEDI, C.J., &

V.M. KANADE, J.

DATED : 16TH OCTOBER, 2006.

P.C. :-

1. We have heard the learned Counsel for the parties and perused the pleadings.

2. We observe that Shri.D.R. Chaudhari was, at the relevant time, holding a substantive post of Law Officer and not that of Member Secretary of the Scrutiny Committee. As per Government Notification dated 4th June 2006, Item No.4, when read alongwith Rule 9 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003, Member Secretary must be a

Member of the Scrutiny Committee under all circumstances. It is conceded by the learned Counsel for the respondent that Shri M.S. Deore who was a Member Secretary, was on Medical Leave with effect from 31st December, 2005 and, therefore, Shri D.R. Chaudhari, who was a Law Officer, was given the additional charge of Member Secretary while holding the post of Law Officer as well. We thus find that the Committee was not properly constituted.

3. We, therefore, quash the impugned Order at Exhibit “A” with liberty to the respondents to pass a fresh order in accordance with law, as expeditiously as possible. We also direct that the Presiding Officer of School Tribunal, where appeal is pending, to decide the same in the light of this order within one month.

4. We also observe that no issue on the merits of the controversy has been raised by the learned Counsel for the parties and all issues are therefore kept open.

CHIEF JUSTICE

V.M. KANADE, J.